

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

MACA.No. 53 of 2007()

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OPMV.292/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL,
NEYYATTINKARA
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APPELLANT /2ND RESPONDENT

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UNITED INDIA INSURANCE COMPANY LTD,
THIRUVANANTHAPURAM NOW REP. BY ITS
ASSISTANT MANAGER, REGIONAL OFFICE,
"SHARANYA", HOSPITAL ROAD,
KOCHI-11.**

**BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW**

RESPONDENTS: PETITIONER & RESPONDENTS 3 & 4

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1. LATHIKA, W/O. JAYAN, KALABHAVAN,
CHAIKULAM, KATTAKKADA,
VEERANAKAVU P.O.
THIRUVANANTHAPURAM.**

**2. KUMARI KALA JAYAN,
-DO- -DO-**

**3. J.KIRAN,
-DO- -DO-
(1ST RESPONDENT IN THE ABOVE OP DIED)
BY**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 09/01/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 53 OF 2007

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Dated this the 9th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Thrissur in O.P.(MV) 292/01. The claimant is the mother of the deceased Kishore who died in a road accident. The vehicle belonged to the first respondent who subsequently died and his legal representatives were impleaded as respondents 3 and 4. The Tribunal found that the claimant is entitled to the compensation at the same time also held that the driver namely the deceased was not having any valid driving licence and therefore the Insurance Company is entitled to reimbursement of the amount from the legal representatives of the deceased first respondent namely the claimant and respondents 3 and 4. Or in other words, the liability of the claimant and respondents 3 and 4 are equal, that is, 1/3 of the total amount. What the Tribunal has done is a direction was given to the Insurance Company to pay the entire amount to the

claimant and then later reimburse it from her as well as from respondents 3 and 4. Since her liability is 1/3rd it can be deducted from the total compensation and the balance need to be ordered to be paid to her with the right to the Insurance Company to reimburse it from other persons. When it is so, the proportionate liability of the claimant would come to Rs.70,800/- with interest. If it is effected then the claimant will be entitled to Rs.1,41,700/- with 9% interest on the said sum from 28/2/2001 till realisation. Therefore, the award requires modification and it is disposed of as follows:

The claimant is awarded a compensation of Rs.1,41,700/- with 9% interest on the said sum from the date of petition till realisation from the 2nd respondent and the 2nd respondent is given the right to get reimbursement of the said amount from respondents 3 and 4 in the claim petition.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

ul/-